


02-92-0218 10/7/92 nm

 <b>EPA</b> United States Environmental Protection Agency Washington, DC 20460		RESERVED FOR DATA ANALYST'S USE	
<b>CERCLA Enforcement Case Data</b>		Case No.	Date Entered
<b>CASE NAME</b> (Lead or principal defendant, not site or facility name) Edward Lecaurreaux		Analyst's Initials	
<b>STATE</b> NJ	<b>REGION</b> 2	<b>BRANCH</b> (Optional) NTSUP	<b>SECTION</b> (Optional) 2
<b>TYPE CASE</b> <input type="checkbox"/> CIV = Civil <input type="checkbox"/> ACC = Access Case <input checked="" type="checkbox"/> BNK = Bankruptcy <input type="checkbox"/> PRN <input type="checkbox"/> COL = Collection Action			
<b>LAWS/SECTIONS:</b> DO NOT use USC or CFR designations.			
1. CERCLA / <input type="checkbox"/> 103(a) <input type="checkbox"/> 104(e): Access/Inspection <input checked="" type="checkbox"/> 107(a) <input type="checkbox"/> 109			
<input type="checkbox"/> 103(d)(2) <input type="checkbox"/> 106(a) <input checked="" type="checkbox"/> 107(c)(3) <input type="checkbox"/> 122(e)(3)(B)			
<input type="checkbox"/> 104(e): Information <input checked="" type="checkbox"/> 106(b) <input type="checkbox"/> 108 <input type="checkbox"/> 122(h)(3)			
2. _____ / _____			
3. _____ / _____			
4. _____ / _____			
<b>REGIONAL PROGRAM CONTACT</b> (Last name) Feldstein		(First Init.) J.	Telephone Number FTS-212-264-0613
<b>REGIONAL ATTORNEY</b> (Last name) Siegel		(First Init.) J.	Telephone Number FTS-212-264-3277
<b>PRPs</b> (All must be listed; attach list if necessary)			
1. Edward Lecaurreaux			
2. Lightman Dorn Company, Inc.			
3. _____			
4. _____			
5. _____			
6. _____			
7. _____			
8. _____			
9. _____			
<b>Is the site on the NATIONAL PRIORITY LIST (NPL)?</b>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>REFERRAL WITH CONSENT DECREE? (CIV only)</b>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Is this an action to ENFORCE an ADMINISTRATIVE ORDER?</b>		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>RELIEF SOUGHT IN REFERRAL</b> (Check as many boxes as apply)			
<input type="checkbox"/> IRMV (Injunctive Removal)		<input checked="" type="checkbox"/> CRMV (Cost Recovery Removal)	
<input type="checkbox"/> IRFS (Injunctive RI/FS)		<input type="checkbox"/> CRFS (Cost Recovery RI/FS)	
<input type="checkbox"/> IRD (Injunctive Remedial Design)		<input type="checkbox"/> CRD (Cost Recovery Remedial Design)	
<input type="checkbox"/> IRA (Injunctive Remedial Action)		<input type="checkbox"/> CRA (Cost Recovery Remedial Action)	
<input checked="" type="checkbox"/> PEN (Penalty)		<input type="checkbox"/> COTH (Other Cost Recovery, e.g. bankruptcy for future costs)	
<b>REFERRAL INDICATOR</b> (Not Applicable at PRN stage)		<b>DATE FIRST DEMAND LETTER SENT</b> 1 / 1	<b>DATE OPENED/REGIONAL ATTORNEY ASSIGNED</b> 9 / 10 / 92
<input type="checkbox"/> HD: HQ to DOJ <input type="checkbox"/> RH: Rg to HQ <input checked="" type="checkbox"/> RD: Rg to DOJ (direct referral) <input type="checkbox"/> RU: Rg to US Attorney		<b>DATE MINI LIT PKG SENT</b> 1 / 1	<b>DATE REFERRED</b> (Not Applicable at PRN stage) 9 / 25 / 92



SEP 25 1992

John C. Cruden, Esq.  
Chief, Environmental Enforcement Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
10th and Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Re: Filing of Proof of Claim in Chapter 11 Bankruptcy Proceeding  
of Edward Lecarreux

Dear John:

I am referring the above-referenced action to your office for litigation pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. §9607 and the United States Bankruptcy Code 11 U.S.C. §101 et seq.

On April 26, 1990 the United States filed a civil action in the Federal District Court of New Jersey [Civ. No. 90-1672 (HLS)] against Edward Lecarreux ("Lecarreux") for response costs under Section 107(a) of CERCLA, 42 U.S.C. §9607(a) and civil penalties and punitive damages under Section 106(b)(1), 42 U.S.C. §9606(b)(1) and Section 107(c)(3), 42 U.S.C. §9607(c)(3) of CERCLA, respectively. The action concerned Lecarreux's liability as owner and operator of the Duane Marine CERCLA site in Perth Amboy, New Jersey [see litigation referral package, 9/28/89, for background information on the Duane Marine site and on Lecarreux's responsibility at the site].

On July 30, 1991, Judge H. Lee Sarokin of the District of New Jersey granted the United States' Motion for Summary Judgment on Liability and referred the case to Magistrate Judge Hedges for a determination on the amount of costs, penalties and punitive damages. Following a hearing on costs, penalties and punitive damages, the United States filed Proposed Findings of Fact and Conclusions of Law which were adopted by the Magistrate in his January 29, 1992 Report and Recommendation.

On February 18, 1992, Judge Sarokin affirmed the Magistrate's ruling and entered judgment against Lecarreux for the full sums in the United States' Proposed Findings of Fact and Conclusions of Law. Specifically, the United States was awarded \$ 346,646.28

ORC-NJSUP  
SIEGEL

*[Signature]*  
9/23/92

ORC-NJSUP  
MCVEIGH

*[Signature]*  
9/23/92

ORC  
DEAZEY

*[Signature]*  
9/23/92

in response costs for which Lecarreux is jointly and severally liable with defendant Lightman Drum Company, Inc. In addition, Lecarreux was also found liable for \$ 1,770,000 in penalties and \$ 228,336.81 in punitive damages.

However, it was discovered post-judgment that the Court Clerk in the District of New Jersey had failed to notice Lecarreux of the Magistrate's Report and Recommendation. As a result, on March 26, 1992, counsel for Lecarreux and the United States established a scheduling order on consent for filing objections in the District Court. On June 24, 1992, following receipt of briefs submitted by the parties, Judge Sarokin vacated his original February 18, 1992 Order due to the Court Clerk's error and issued a new Order and Judgment. The new Order and Judgment re-adopted the Magistrate's Report and Recommendation, thereby once again awarding the amounts specified in the United States' Proposed Findings of Fact and Conclusions of Law.

On March 23, 1992, following Judge Sarokin's original Order, but before the June 24, 1992 Order, Lecarreux filed a petition in the United States Bankruptcy Court in the Eastern District of New York under Chapter 11 of the Bankruptcy Code. The Notice of Automatic Stay and Notice of Commencement of the Case are enclosed. Our staff has already had preliminary discussions with Katherine Baker of your office and Roseanne Harvey, Assistant U.S. Attorney at the Eastern District. As of September 22, 1992, the Bankruptcy Court in the Eastern District of New York has not scheduled a bar date for filing a Proof of Claim.

We believe that, at a minimum, a Proof of Claim should be filed for the \$ 346,646.28 in response costs. In addition, the \$1,770,000 in penalties and \$ 228,336.81 in punitive damages should be included in the Proof of Claim unless our offices mutually agree that there are strategic reasons for not including them.

We are prepared to work with your office to help draft the Proof of Claim. If you have any questions regarding this matter, feel free to contact me or have your staff contact Joseph A. Siegel, the Region II staff attorney assigned to this matter. Mr. Siegel's telephone number is (212) 264-3277.

Sincerely yours,

Douglas R. Blazey  
Regional Counsel

Enclosures

cc: Katherine Baker, DOJ  
Roseanne Harvey, Eastern District

FACILITY DATA FORM

\* Please use the address of the site of violation (rather than the company mailing address or defendant's address).

\* A separate form must be completed for each facility cited in the case.

CASE NO.: 02-92-0218

EPA ID NO. NJD054526553

(Assigned by DOCKET)

(Assigned by FINDS)

Facility Name: Duane Marine Corp / Duane Marine Salvage Corp

Street Address: 36 Washington St

City: Pewh Ambay State: NJ Zip Code: 08861

Ownership: P

P: Private industry or individual  
F: Federal Government  
S: State  
C: County  
M: Municipal  
D: District

Sic Code(s): \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
\*\* At least one sic code is required. If you don't know the code, please provide the primary activity at the facility:

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**FINDS ID NUMBER ASSIGNMENT FORM\***

REQUESTOR'S NAME M Marshall DATE 10/27/92

SYSTEM DOCKET PHONE NUMBER X-1064

\*\*\*\*\*

EPA ID NUMBER

NJD0545 26553

SOURCE ID NUMBER

02-92-0218

SIC CODES \_\_\_\_\_

\*\*\*\*\*

NAME OF FACILITY Dane Marine Corp

STREET 26 Washington ST

CITY Perth Amboy STATE NJ ZIP 08861

COUNTY Middlesex COUNTY CODE 23

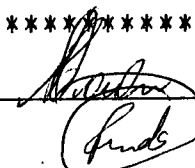
LATITUDE \_\_\_\_\_ LONGITUDE \_\_\_\_\_

\*\*\*\*\*

IS THIS A FEDERAL FACILITY? NO ☒ YES [ ]

AGENCY NAME \_\_\_\_\_

\*\*\*\*\*

Date Completed 10/27/92 Signature 

\*Please complete with as much information as possible.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 21 1997

OFFICE OF  
GENERAL COUNSEL

**MEMORANDUM**

SUBJECT: Delinquent Account Receivable / Edward LeCarreaux  
FCC-96-50019

02 - 1992 - 0218

FROM: David R. Lloyd  
Assistant General Counsel and Claims Officer  
Finance and Operations Division

IFMS Transaction(s) Reviewed  
and Initials: *WLR*  
Trans. # *WLR*  
Batch # *WLR*  
Initial: *WLR*  
Date: *7/13/97*

TO: German Guajardo, Acting Chief  
Financial Reports and Analysis Branch (3303F)

The purpose of this memorandum is to notify you that we are closing our file with regard to the above-referenced claim. We received this claim on or about May 17, 1996.

The debt against *Edward A. LeCarreaux, 02294T054* is in the amount of \$1,998,336.00 for fines and penalties and \$346,646.28 for Superfund cost recovery. The debt was established by the entry of a judgment against the debtor in these amounts. The debtor filed for bankruptcy after the issuance of the judgment, but the referenced debt was not discharged in bankruptcy. The responsible Department of Justice (DOJ) attorney in the Environmental Enforcement Section, Jonathan Marks, has provided documents to our office evidencing the Department of Justice's (DOJ) conclusion that further collection action on the judgment is unwarranted. Specifically, Mr. Marks transmitted a letter which explains that the Bankruptcy Court appointed trustee has continued to confirm that the debtor has no assets and that the bankruptcy matter has or will soon be closed. Further, DOJ's Environmental Enforcement Section, has confirmed to me that DOJ has closed its file in this matter, and the United States Attorney for the Eastern District of New York has submitted written evidence of this fact. Based upon DOJ's conclusion that further collection action is not warranted, this matter should be closed.

This debt was established under the authorities of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9607. Pursuant to 42 U.S.C. § 9622, any claim established under 42 U.S.C. § 9607 for which total response costs exceed



\$500,000, can only be compromised with the written approval of the Department of Justice. The above-referenced documents from DOJ constitute concurrence with your decision to close this file, pursuant to 40 CFR Part 13, and CERCLA Section 122(h). I further concur in this decision. Accordingly, this account receivable can be zeroed-out and closed. Please contact me if you have questions regarding this file. My number is (202) 260-8217.

cc: Ron Gherardi, FMO (Region II)  
John Ciorciari (Region II) ✓  
Rusty Allwein (Headquarters)  
Jonathan Marks, Esq. (DOJ)  
Roseanne M. Harvey (AUSA)

**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

IMA:RMH  
RH193

*United States Attorney's Office  
1 Pierrepont Plaza  
Brooklyn, New York 11201*

July 15, 1997

Dave Lloyd  
United States EPA  
Office of General Counsel - Mail Code 2377  
401 M Street, S.W.  
Washington, D.C. 20460

Re: In Re Lecarreux, Chapter 7 (EDNY)

Dear Mr. Lloyd:

As discussed during our recent telephone conversation, this office closed the file concerning the referenced case quite some time ago. To the best of my recollection, the bankruptcy estate had no assets available for the claims of creditors including the IRS and EPA. I hope this information will assist you in disposing of any matters your office may have pending with respect to this case.

Very truly yours,

ZACHARY W. CARTER  
United States Attorney

By:

*Rosanne M. Harvey*  
ROSANNE W. HARVEY  
Assistant U.S. Attorney  
(718) 254-6028



MAY 17 1996

MEMORANDUM

SUBJECT: Delinquent Accounts Receivable

FROM: Carl F. Dolinka, Chief *CFD*  
Financial Reports and Analysis Branch (3303F)

TO: David Lloyd  
Assistant General Counsel and Claims Officer  
Contracts, Claims and Property Law Branch (2376)

I am forwarding to you the attached uncollectible accounts for debts owed EPA by Edward Lecarreux. The debts are the result of CERCLA enforcement actions at the Duane Marine Superfund site, \$1,998,336.00 for fines and penalties and \$346,646.28 for past cleanup costs.

The Region II Office of Regional Counsel recommends write-off of the debts because the debtor is bankrupt and without assets. Copies of supporting documentation are attached for your review. If the accounts are deemed uncollectible, please return the file to FRAB with instructions for the Finance Office to write-off the accounts. If you have any questions or need additional information, please contact Rusty Allwein on 260-6310.

Attachments

cc: ~~Ron Gherardi~~ Comptroller  
Region II



Recycled/Recyclable  
Printed with Soy/Canola Ink on paper that  
contains at least 50% recycled fiber